



Clay County Sheriff's Office

Sheriff Vic Davis

Title:	Evidence Management
Codified:	5.5
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Rescinds/Amends:	
Attachments:	

Purpose

The purpose of the Policy is to establish proper procedures for the storage of evidence and property within the Evidence Section of the Clay County Sheriff's Office as defined by North Carolina General Statute – G.S. § 15-11. The Evidence Section will consist of a Primary Evidence Custodian and/or an Assistant Evidence Custodian appointed by the Sheriff.

Guideline

Discussion

This Policy will address evidence and property in the custody of the Sheriff's Office that is acquired by the Sheriff's Office as found, abandoned, recovered, or evidentiary property. The Evidence Custodian shall develop and maintain strict controls with respect to the handling, security and disposition of said property.

Definitions

1. Types of Evidence:
 - a. **Evidentiary Evidence:** Evidence that is collected for presentation to a Court of Law and the prosecution of a suspect(s).
 - b. **Seized Property/Evidence:** Property/Evidence that is seized as part of an active criminal investigation or a Civil Action.
 - c. **Abandoned/Recovered Property:** This is Property that has been abandoned/found and someone has turned it into the Sheriff's Office. It is not considered EVIDENCE and is kept separate from evidence.
 - d. **Recovered Property:** Property that has been reported stolen to this agency or another agency and is recovered; to be returned to the owner or held if an arrest has been made until the case is concluded.
2. Types of Container used in Evidence Collection and Securing: (See Attached Sample of a Property Receipt using the below definitions.)

- a. **BPB – Brown Paper Bag:** There are several sizes of Brown Paper Bags but this is used as the standard.
- b. **CEB – Clear Evidence Bag:** There are several sizes of Clear Evidence Bags but this is used as the standard.
- c. **ME – Manila Envelope:** Manila Envelope is used to send evidence to the Crime Lab. It must be sealed and initialed with the required documents in a white envelope attached to the outside.
- d. **WCDS – White CD Sleeve:** This is used for the CD of the interview done in the Interview Room. The original CD must be placed into evidence.
- e. **WHB – White Handgun Box:** Used to store any handguns placed into evidence. Ammunition will not be placed in the Handgun Box, it must be stored separately.
- f. **WKB – White Knife Box:** Used to store any Non-Folding Knives. Use the ties to secure in the box.
- g. **WRB – White Rifle Box:** Used to store a Rifle/Shotgun. All weapons must be secured in the box using ties.
- h. **Evidence Lockers:** There are Evidence Lockers located in the Break room of the Sheriff's Jail Building and in the New Sheriff's Office. All evidence collected during evening hours will be placed in the lockers and locked.
- i. **Evidence Collection:** The Evidence Technician will collect the evidence from the locked lockers each morning except weekends or holidays. If the lockers become full then a Supervisor will notify the Evidence Technician, who will respond and empty the lockers.

Policy

It shall be the policy of the Sheriff's Office that found, abandoned, recovered or evidentiary property seized or acquired by the Sheriff's Office shall be turned over to the Evidence Custodian. The Evidence Custodian shall be responsible for control of all property stored in the Sheriff's Office evidence facilities.

Procedures

1. Administration

- a. Any evidence that is collected, seized or received will be documented using the Incident Report and the Evidence/Storage Property Reports in Sheriff's-Pak by a patrol Deputy or Detective. All property, found or abandoned will be documented in an Incident Report and the Evidence/Storage Property Reports also and a Clay County Receipt for Property will be completed in detail. Each item will be coded as to the type of property being taken in for safekeeping as listed on the Receipt for Property.

- b. All evidentiary property shall be stored in a Sheriff's Office evidence storage facility. All Found/Abandoned property will be stored separately from the evidentiary property in an area designated by the Clay County Sheriff.

2. Storage Area

- a. The Sheriff's Office maintains its primary storage facility at 295 Court House Dr. in Hayesville, N.C. The facility has additional storage in an outside secured garage and a secured Impound lot.

3. Retention of Property by Deputy

- a. All property coming into a Deputy's custody shall be turned in, complete with all proper documentation, as soon as possible after being received by the Deputy. All property shall be turned into a designated temporary evidence locker or the Evidence Section. Under no circumstances shall a Deputy or Detective retain evidence or property beyond their tour of duty each day.

4. Property Description

- a. All property shall include a complete description of each item of property on the CCSO Property Receipt. Each receipt shall describe in detail each piece of property and the container that the property comes into the Deputy's or Detective's possession.

5. Evidence Lockers

- a. Evidence lockers are located in the Sheriff's Main Office for the purpose of temporary storage of evidence property. These lockers may be used at any time and shall be used whenever the Evidence Custodian is not available. They will be emptied by the Evidence Custodian in the morning, except during the weekends or holidays.
- b. Evidence lockers are equipped so that items may be stored inside the locker and once locked, cannot be reopened except by the Evidence Custodian who maintains the only keys.
- c. All paperwork associated with the property shall be placed inside of the locker with the property. Each piece of evidence shall have a "Receipt for Property" attached to it and must be completed with a full description of the items attached and describe the container it is placed in.
- d. In the event any lockers should become full or evidence needs to be picked up for any other reason, the Evidence Custodian shall be called by the Shift Supervisor or the Patrol Captain to collect and secure the evidence in the locker. In the event of a major case investigation the Detective in charge or the Investigation Division Supervisor shall have the Evidence Custodian respond to take charge of the evidence.
- e. If any large amounts of drugs or money are placed in an evidence locker the Evidence Custodian will be notified of that fact. The Evidence Custodian will arrange for a special pickup with an additional person/witness to verify volume and amount. A large amount of drugs

Directive 5.5

would be any amount that meets North Carolina Statutes requirements for trafficking. A large amount of money would be any amount over two thousand dollars (\$2,000).

6. Security Procedures

- a. Only the Evidence Custodian and the Assistant Evidence Custodian assigned directly to the Evidence Section shall have the authority to access secured areas.
- b. No employee will transport evidence in their privately owned vehicle, unless there are exigent circumstances that justify the action.
- c. No civilian employee will transport large amounts of drugs or money without an escort by a sworn Deputy. The Shift Supervisor shall be responsible for arranging a sworn Deputy to escort the civilian Evidence Custodian. A large amount of drugs would be any amount that meets North Carolina Statutes requirements for trafficking. A large amount of money would be any amount over two thousand dollars (\$2,000).

7. Receipt of Property into Evidence

- a. Evidence Section personnel shall log in all property upon receipt or as soon as possible after receipt.
- b. The Evidence Custodian will utilize the Bar Coding System to assign an inventory number and a storage location.
- c. All items shall be entered into the Sheriff-Pac Program by the Evidence Technician collecting the property.
- d. All items shall then be placed into its assigned storage location assigned by the Bar Code until needed for court or disposal.

8. Disposal of Firearms

- a. Citizens who wish to dispose of firearms may turn them into the Sheriff's Office. For safety reasons, firearms must be turned over to a Deputy and not to Non-Sworn personnel.
- b. Firearms should be unloaded and a NCIC check must be made at the time it is turned in. After the NCIC check is completed, the Deputy must complete a receipt for property form and turn the weapon over to the Evidence Custodian. The Firearm will be held for 180 days and then disposed of appropriately.
- c. In the case of incapacitated persons who are unable to deliver a firearm to the Sheriff's Office, the Sheriff upon his approval will have a Deputy respond and pick up the firearm(s) at the person's home.
- d. Weapons/Firearms that are turned in are considered Abandoned Property and shall be secured with no access by the public or personnel of the Clay County Sheriff's Office.

9. Vehicles

- a. There are three classifications of vehicles that are stored in the Impound Lot behind the Sheriff's Office. Each will be explained in detail below. An "Impounded Vehicles/Felony Speeding Elude Seizures" form will be completed on all vehicles placed in the Impound Lot by the officer impounding it.
 - i. Civil Seized Vehicles
 - ii. Vehicle involved in an Incident that is taken in as Evidence
 - iii. Vehicles that are Seized under the "Flee to Elude" General Statute
- b. Vehicles taken in as Evidence involving an Investigation shall be photographed upon arrival and the photographs placed in a folder in a vehicle file while the vehicle is in storage. Photos shall include:
 - i. All four sides including the tag and top of the vehicle.
 - ii. Wheels, if of a custom or unusual design
 - iii. The interior, to include any radios, cassettes or other equipment.
- c. Vehicles that are seized by the Civil Department will be held until the civil action has been settled or placed on the Auction Block.
- d. Vehicles that are Seized under the "Felony Speeding to Elude" statute are handled as follows:
 - i. If the person whom is arrested for the Felony Elude charges is the owner of the vehicle seized, they will be required to post a BOND to have the vehicle released back to them. The bond will be the Blue Book value of the vehicle, times three.
 - ii. If the owner is not the person whom was arrested, they can petition the Clerk of the Court to have the vehicle released to them. They must prove ownership and sign a document with this agency that the vehicle will not be sold/traded until the charges have been disposed.
 - iii. Before the vehicle can be released to either of the individuals above it will be photographed, all four sides, top of vehicle, interior of vehicle, truck and engine areas of the vehicle; a close up of the dash board showing the mileage and any special electronics mounted on it.
 - iv. An inventory of contents of the vehicle will be completed.
- e. Keys to vehicles shall be secured in the Impound Keys Lock box for access and maintenance by the Evidence Custodian. During the evening hours, weekends or Holidays the keys along with the documentation for the vehicle will be placed on the Evidence Custodians desk.

10. Acceptance and Release of Narcotics and Dangerous Drugs (Controlled Substances)

- a. All Narcotics that are seized, found or received by a sworn Deputy/Detective will have an OCA Report completed and a “Receipt for Property” listing a full description of the contents to include the count or weight of the contents. No Narcotics or Dangerous Drugs will be mailed to the Crime Lab until it is processed first through the Evidence Section showing the chain of custody of said Narcotics/Drugs.
- b. Narcotics and dangerous drugs, except in exigent circumstances, shall not be accepted into evidence unless packaged by the investigating Deputy/Detective. It shall be sealed in a tamper-proof protective package by the Deputy/Detective.
- c. Narcotics/dangerous drugs that are sent to the laboratory shall be delivered in the original tamper-proof package, after examination to verify the package has not been tampered with. The package will be examined at the laboratory and officially repackaged by the laboratory prior to being returned.
- d. In the event extremely large amounts of narcotics/dangerous drugs are seized, and they are not or cannot be packaged in a manner which is tamper-proof, immediate arrangements shall be made to document the seizure, secure the property with a sworn Deputy and contact the District Attorney’s Office or the Resident Superior Court Judge for permission to destroy.
- e. Narcotics/dangerous drugs which are in tamper-proof packages shall be counted and recorded as to the number of packages. Prior to any transfer of evidence the packages shall be inspected by the Evidence Custodian to ensure they have not been tampered with and re-counted to verify quantity.

11. Storage of High-Security and High-Risk Property

- a. Items of property requiring increased protection shall be segregated and locked inside a secured and separate area within an evidence storage facility. These high-security and high-risk items shall include, but are not limited to:
 - i. Currency or negotiable instruments;
 - ii. Precious metals;
 - iii. Jewelry;
 - iv. Gemstones;
 - v. Firearms;
 - vi. Controlled Substances;
 - vii. Antiques.

12. Temporary Released of Property

- a. Property shall be temporarily released by the Evidence Section for reasons including, but not limited to, the following:

- i. Investigation;
 - ii. Court purposes;
 - iii. Lab analysis;
 - iv. Random Audits ordered by the Sheriff or his Designee.
- b. The appropriate paperwork will be signed when the property is released from and returned to the Evidence Section in order to maintain the property's chain of custody.
- c. The property's record in the Sheriff's-Pak Program system shall be updated to correctly reflect the property's status when released and returned, as soon as possible by Evidence Custodian. A copy of the Property Receipt, SBI Crime Lab Request, SBI Crime Lab Property Receipts and SBI Lab Reports will be maintained by the Evidence Custodians in a Filing Cabinet.

13. Disposition of Property

- a. The Deputy shall make an attempt to locate and notify the owner of the property in custody. The status of the attempt shall be recorded on the property report. If the Deputy is unable to notify the owner; the Evidence Section shall then be responsible for notifying the owner once the property is received into the Evidence Section. If located, the owner shall be notified of the status of their property and the procedure for its return.
- b. Final disposition of property shall be accomplished after the Prosecution is concluded by the District Attorney's Office. A "Final Disposal Action" form will be completed and signed by a District Attorney for Misdemeanor cases. A Court Order will be completed and signed by a Judge for the Disposal of all Firearms to be either destroyed or returned to the rightful owner.
- c. The Evidence Section shall determine the final disposition of all cases involving the storage of property by this agency. Authorization for disposal will be predicated upon one of the following:
 - i. District Attorney's Office case disposition form.
 - ii. District Attorney's Authorization to Return Seized Property/Evidence Letter.
 - iii. Expiration of the two year statute of limitations for Misdemeanors as cited in North Carolina General Statute for the prosecution of a specific offense if a warrant is not on file or the case does not result in an arrest.
 - iv. Identification of and return to the true owner, when authorized by law.
 - v. Expiration of the statutory holding period and completion of proper procedure as outlined in North Carolina General Statute.

- vi. Court order.
 - vii. Records section disposes of the case file according to North Carolina General Statute.
- d. When an unknown suspect/offender cannot be identified and a case has not been filed with the District Attorney's office, evidence will be held as follows:
- i. Capital or life felonies – indefinitely.
 - ii. Kidnapping (if unsolved) – Indefinitely.
 - iii. Missing persons (if unsolved) – indefinitely.
 - iv. Sexual Offenses (if unsolved) – indefinitely.
 - v. Other felonies – five (5) years (unless released by a Court Order).
 - vi. Misdemeanors – three (3) years (unless released by a Court Order).
 - vii. All felony cases, in which a guilty verdict is returned and defendant is sentenced to state prison are subject to appeal and the evidence shall not be routinely disposed of. These cases must be reviewed on a case by case basis with the District Attorney's Office.
- e. Evidence personnel shall check for multiple defendants in the case before disposing of evidence.

14. Categories of Disposal

- a. Methods of disposal of property in the custody of the Sheriff's Office shall fall under one of the following categories:
- i. Return to rightful owner. This is done in compliance with Departmental Directives, authorization from the District Attorney's Office, Department Legal Advisor, court order and North Carolina General Statute.
 - ii. Receiving a Letter from District Attorney's Office – Authorization to Return Seized Property/Evidence.
 - iii. Return via court order. At the direction of the court following final disposition, or resulting from a motion.
 - iv. Return to agent. When victim has been reimbursed by an insurance company, or an attorney or other designated person stands in the stead of the owner. All paperwork must be carefully examined to verify that it is in order.
 - v. Forfeiture. Property that has been awarded to the Department by the court under a forfeiture action.
 - vi. Legal Auction. That property, except firearms and contraband property, of unknown ownership which cannot be used by the Department or other county agency that is of sufficient monetary value will be sold at public auction.

- vii. Donated to charitable organization.
- viii. Legal Destruction. Contraband, damaged property, and property of little monetary value for which ownership cannot be established will be disposed of pursuant to the provisions of North Carolina Statue by court order, or Departmental Directives.
- ix. Other disposal. Following expiration of the governing statute, all unclaimed, lost or abandoned property will be disposed of pursuant to North Carolina General Statutes. Generally, this will apply to abandoned prisoner property, unclaimed evidence and no response to finder-wishes-to –claim letters.

15. Return of Photographed Property

- a. Whenever possible, property shall be photographed and returned to the victim/owner. If said property is being held as evidence in reference to a case by the District Attorney’s Office will need to authorize the release of any property back to the victim/owner. Any property released at the scene will be photographed as follows:
 - i. The photograph shall bear:
 - 1. A written description of the property alleged to have been wrongfully taken.
 - 2. Name of the owner of the property.
 - 3. The location where the alleged wrongful taking occurred.
 - 4. The name of the investigating law enforcement officer.
 - 5. The date the photograph was taken.
 - 6. The name of the photographer.
 - ii. The photograph shall be identified by the signature of the photographer.
- b. The photograph shall then be attached to the “Authorized Release Form” and filed in the Case File maintained in a Filing cabinet.
- c. Only after the above guidelines have been met, can the photographed property be released to the owner.

16. Destruction of Property

- a. Destruction of property is performed in various ways determined by the property to be destroyed. Property is destroyed when it is determined to have no legal purpose, is unsafe or has no know value.
- b. Alcoholic beverages shall be destroyed by pouring them down the sink in the evidence facility. This shall be witnessed by one other employee who will also sign the original property receipt.
- c. Firearms that are illegal or are in very poor condition will be destroyed. This shall be witnessed by one other employee who will also sign the original property receipt.

- d. Narcotics and dangerous drugs, drug paraphernalia, medical waste, (rape kits, urine or blood samples), shall be destroyed by incineration. This shall be witnessed by one other employee who will also sign the original property receipt or attached affidavit.
- e. Ammunition will be receipted to the range officer for disposal.
- f. Flammable or hazardous liquids or waste must be disposed of within guidelines established by Clay County, the State of North Carolina, and the U.S. Government. The type of material will dictate the method of disposal. Whenever any such material is to be disposed of the evidence custodian will first contact the Clay County Environmental Control Office who will assist in the destruction.

17. Records

- a. The Evidence Section shall maintain a computerized record of all property in the Sheriff's Office custody utilizing Sheriff-Pak Evidence Module.
- b. The records shall contain at a minimum, the following information
 - i. Location of the property
 - ii. Date and time property was received
 - iii. Date and time property was released
 - iv. Full description of the item/property
 - v. Chain of custody from time the property was stored until its destruction or other final disposition
 - vi. Date and results of all inspections and inventories of property
 - vii. Audits of records
 - viii. Sheriff's Office Property Receipts will be maintained in a Filing cabinet showing the initial receipt of said property.

18. Inspection/Inventory

- a. At least semi-annually, the Supervisor of the Evidence Custodian(s) shall inspect the evidence storage facility and the vehicle storage facilities to ensure:
 - i. The evidence storage areas are being kept in a clean and orderly fashion.
 - ii. The provisions of this and any other Directives concerning the evidence management are being followed.
 - iii. Property is being protected from damage or deterioration.
 - iv. Proper accountability procedures are being maintained.
 - v. Property having no further evidentiary value is being disposed of promptly.
- b. An annual physical site-verification inventory shall be conducted of all property being held by the Evidence Section. The Supervisor of the Evidence Custodian(s) shall notify the Sheriff of the date for the

annual site-verification inventory. The Sheriff shall then appoint an inspector who is not routinely or directly connected with control of property in the Evidence Section, to conduct the physical inventory/site verification inspection of all property in the custody of the Evidence Section. The inspection shall be for the purpose of ensuring the integrity of the system not to require an accounting of every item of property.

- c. Unannounced semi-annual inspections shall be conducted of the property storage areas to include random inspections of records with physical property.
- d. The Supervisor of the Evidence Custodian(s) will conduct monthly spot inspections to ensure the property in custody of the Evidence Section is accounted for.
- e. When a change of Evidence Custodians occurs an inventory of the property held in Evidence Section shall be conducted by the new Evidence Custodian and the outside of the agency Sheriff's designee to ensure that records are correct and properly annotated. It shall be upon agreement of both the former and the new Evidence Custodian to determine if a complete site verification inventory is conducted or if an adequate number of items are inventoried to satisfy both persons. When the new Evidence Custodian signs for the inventory they become responsible for the total inventory.